

INSTRUCTIONS FOR PREPARING

FORM 500

VIRGINIA CORPORATION INCOME TAX

RETURN FOR 2004



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TAXATION
RICHMOND, VIRGINIA

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FORMS AND INFORMATION

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Forms Only –

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WHAT'S NEW

Filing Requirements for Pass-Through Entities - New -

House Bill 5018 (Chapter 3, 2004 Special Session I) requires pass-through entities to file an annual information return with the Department of Taxation setting forth their income and a list of their owners. Subchapter S Corporations will file the new Form 502 for pass-through entities instead of Form 500S which has been discontinued. See Form 502 and instructions for filing for more information.

Fixed Date Conformity -

The 2004 General Assembly enacted legislation that moved Virginia's fixed date conformity with the Internal Revenue Code from December 31, 2002, to December 31, 2003. Virginia will continue to disallow any bonus depreciation allowed for certain assets under federal income taxation and any 5 year carry-back of net operating losses ("NOL") allowed for NOLs generated in either taxable year 2001 or 2002. Refer to Virginia Tax Bulletins 03-1 and 04-02 for more information. For copies of Tax Bulletins and Fixed Date Conformity updates, visit our web site at **www.tax.virginia.gov**.

Requirements for Adding Back Intangible and Interest Expenses Paid to Related Members - New

House Bill 5018 (Chapter 3, 2004 Special Session I) requires corporations to add back expenses, such as royalties, paid to related members in connection with certain intangible assets (patents, trademarks, copyrights and similar intangible property). The only interest required to be added back is interest that is traceable to a transaction involving patents, trademarks, copyrights and similar intangible property, for example, interest paid to an affiliate that received trademark royalties from another affiliate. There are three safe harbor exceptions for royalties and a fourth applicable to both royalties and interest. (Other safe harbors in the statute for interest are superseded by the restrictive definition of interest subject to the add back requirement.) See Form 500AB and instructions for more information.

Major Business Facility Job Tax Credit -

The Major Business Facility Job Tax Credit has been extended from January 1, 2005, to January 1, 2010. House Bill 615 (Chapter 619) reduces the threshold required to qualify for the Major Business Facility Job Tax Credit from 100 new qualified full-time jobs to 25 when the facility is located in a severely economically distressed area. A severely economically distressed area is one in which the unemployment rate for the preceding year is at least twice the statewide average unemployment rate. The credit is available for two years (taxable years beginning on or after January 1, 2004, but before January 1, 2006) and is limited to \$100,000 per year for all taxpayers. The \$100,000 cap only applies to credits allowable under the proposed reduced threshold.

Neighborhood Assistance Act Tax Credit -

The sunset date for tax credits allowed under the Neighborhood Assistance Act was extended from the close of fiscal year 2004 to the close of fiscal year 2009. Other changes are: clinics operated by a neighborhood organization that has received an allocation of Neighborhood Assistance tax credits may grant such credits to individuals who provide health care services without charge, Neighborhood Assistance Credits are available to eligible health professionals who provide health care services within the scope of their licensure, without charge, regardless of where those services are delivered, and Neighborhood Assistance Act Credits are available to chiropractors who donate time to perform health care services at a qualified health clinic.

Electric Supplier Minimum Tax - New -

Senate Bill 681 (Chapter 716) requires electric suppliers to pay a minimum tax rather than a corporate income tax for any taxable year their minimum tax liability is greater than their corporate income tax liability. See Form 500-EL for more information.

INSTRUCTIONS FOR PREPARING FORM 500
VIRGINIA CORPORATION INCOME TAX RETURNS FOR 2004
(References are to the Code of Virginia, unless otherwise noted)

GENERAL INFORMATION

CORPORATIONS REQUIRED TO FILE

Every corporation organized under the laws of Virginia, every foreign corporation registered with the State Corporation Commission for the privilege of doing business in Virginia, and every corporation having income from Virginia sources must (with the exceptions stated in this instruction) file a return with the **Virginia Department of Taxation, P.O. Box 1500, Richmond, Virginia 23218-1500**, on or before the fifteenth day of the fourth month (fifteenth day of the sixth month for nonprofit corporations) following the close of its taxable year.

Receivers, trustees in dissolution, trustees in bankruptcy, and assignees, operating the property or business of corporations must make returns of income for such corporations. If a receiver has full custody of and control over the business or property of a corporation, he is deemed to be operating such business or property, whether he is carrying on the business for which the corporation was organized or only in marshaling, selling, or disposing of its assets for purposes of liquidation. (Sec. 58.1-441)

Domestic International Sales Corporations (DISC) are taxable under Virginia law and must file Form 500. It is, therefore, necessary for a DISC to report its federal taxable income even though no federal tax is applied.

Effective for taxable years beginning on and after July 1, 1995, Foreign Sales Corporations (FSC) and any income attributable to an FSC are exempt under Virginia law; however, it may be necessary for an FSC to file an information return if it meets the provisions of Sec 58.1-441 and the regulations thereunder.

Effective January 1, 2001, any electric supplier, pipeline distribution company, gas utility, or gas supplier that is subject to federal income tax is also subject to the Virginia corporation income tax and should file a Virginia Corporation Return, Form 500.

Beginning on or after January 1, 2004, electric suppliers may be subject to a minimum tax instead of the corporate tax for any taxable year their minimum tax liability is greater than their corporate income tax liability. Form 500-EL is used to compute the minimum tax and determine which tax applies.

Electric Cooperatives are subject to tax on all modified net income derived from nonmember sales and must file a Form 500-EC even if no tax is due. Beginning on or after January 1, 2004, electric cooperatives may be subject to a minimum tax instead of the modified net income tax if their minimum tax liability is greater than their modified net income tax liability.

Electing small business corporations, not taxable as corporations under Sec. 58.1-400, are required to file the new Form 502, for pass-through entities instead of Form 500-S. Form 500-S has been discontinued. Such small business corporations must have elected to be so taxed under Subchapter S of the Internal Revenue Code.

EXEMPT CORPORATIONS

Corporations not organized for pecuniary profit, which are also exempt from income tax under Section 501(c) of the Internal Revenue Code, are taxed only on their unrelated business taxable income and must report that unrelated business income on Form 500; otherwise, no returns are required.

Public service corporations which pay a state franchise tax or license tax upon gross receipts, insurance companies which

pay a state license tax on gross premiums and reciprocal or inter-insurance exchanges which pay a premium tax to the state are not required to file an income tax return. Additionally, state and national banks, banking associations, trust companies and credit unions organized and conducted as banking institutions are not taxed on their income by Virginia and are not required to file an income tax return. (Sec. 58.1-401.)

PERIOD TO BE COVERED BY RETURN

A corporation's taxable year is the same as its taxable year for federal income tax purposes. If a corporation's taxable year is changed for federal income tax purposes, its taxable year also changes for state income tax purposes. (Sec. 58.1-440.)

ACCOUNTING METHODS

A corporation's method of accounting is the same as its method of accounting for federal income tax purposes. In the absence of any method of accounting for federal income tax purposes, Virginia taxable income shall be computed on the accounting basis regularly used in the corporation's bookkeeping, provided such method in the opinion of the Department of Taxation clearly reflects income. If a corporation's accounting method changes for federal income tax purposes, it also changes for state income tax purposes. (Sec. 58.1-440.)

APPORTIONMENT

Double-Weighted Sales Factor. A double-weighted sales factor is used for corporate apportionment. Under this formula, the sales factor is weighted 50% and payroll and property as 25% each in determining the overall corporate income apportionment factor. See the instructions for Schedule 500A for details on how to compute apportionable income factors.

WHERE AND WHEN TO FILE

Every corporation income tax return must be filed with the **Virginia Department of Taxation, P.O. Box 1500, Richmond, Virginia 23218-1500**, on or before the 15th day of the fourth month (15th day of the sixth month for nonprofit corporations) following the close of a corporation's taxable year. (Sec. 58.1-441.)

ELECTRONIC FUNDS TRANSFER (EFT)

Businesses with an average monthly liability exceeding \$20,000 are required by law to pay their taxes by EFT. This requirement applies separately for corporate income tax, retail sales and use tax, and withholding tax. Taxpayers that are identified as mandatory EFT filers will be notified by first class mail to begin making tax payments by EFT. Taxpayers who do not have an average monthly tax liability of \$20,000 may voluntarily choose to pay any of these three types of taxes by EFT.

COMPUTER GENERATED/PREPARED FORMS

A corporation may elect to file its Virginia Corporation Income Tax return on Department-approved computer-generated forms.

PAYMENT OF TAX

Unless payment is made through our web site or by EFT, a check or money order covering the unpaid balance of the tax must be attached to the return along with Form 500V. Checks or money orders should be made payable to the Virginia Department of Taxation. (Sec. 58.1-455.) Payments returned by the bank will be subject to a returned payment fee in addition to any other penalties that may be incurred.

EXTENSION OF TIME, FORM 500E

To request an extension of time to file a corporation income tax return, you can file Form 500E, submit an EFT extension payment, or use ifile at www.tax.virginia.gov. Form 500E is in payment voucher form and is in your preprinted corporate coupon booklet. An extension of six months, or until 30 days after the extended due date for the federal return, whichever is later, will be granted provided that Form 500E AND payment of any tax due are filed by the due date of the corporate income tax return or the modified net income tax return for electric cooperatives. You must file to receive an extension, even when no payment is due. **The minimum penalty for failure to file timely is \$100.**

If any amount of the tax is underestimated, interest accrues at the underpayment rate set in Sec. 6621, IRS Code, plus 2%. In addition, if the underestimation of the balance of tax due exceeds 10% of the actual tax liability, a penalty will be added in an amount equal to 1/2 of 1% of the tax due per month for each month or part of a month from the original due date of the return to the date of payment. (Sec. 58.1-453.)

PENALTIES AND INTEREST

The penalty for failing to file a return by the due date is 6% of the tax due for each month or part of a month that the return is late. **The minimum penalty for failure to file timely is \$100. (Sec. 58.1-450.)** The penalty for failing to pay the tax due by the due date is also 6% of the tax due for each month or part of a month that the payment is late. (Sec. 58.1-455). For any month that the late filing penalty is imposed, the late payment penalty will not apply. The total penalties for failing to file and failing to pay by the due date cannot exceed 30% of the tax due. In no case, however, will the penalty for failure to file timely be less than \$100, and this minimum \$100 penalty applies whether or not tax is due for the period covered by the return. Civil and criminal penalties may be imposed for filing a fraudulent return. Effective July 1, 2003, the criminal penalty for filing a fraudulent return changed from a Class 1 misdemeanor to a Class 6 felony. (Sec. 58.1-451 and 58.1-452.) Interest on the unpaid balance of any tax and penalty is charged at the underpayment rate established by Sec. 6621 of the Internal Revenue Code, plus 2%, from the due date until paid.

SIGNATURE AND VERIFICATION

The return must be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or other officer duly authorized to act. If an accountant who is not a full-time officer or employee of the corporation prepared the return, or assisted in its preparation, give the name and address of the accountant. (Sec. 58.1-447.)

ATTACH COPY OF THE FEDERAL RETURN

A copy of your federal income tax return, as filed with the Internal Revenue Service, must be attached to the Virginia income tax return. Corporations included in a consolidated federal return must file a copy of the consolidated federal return. (Sec. 58.1-441.) If the federal return is so voluminous that it is impractical to file a complete copy with the Virginia return, the complete federal return must be made available to the Department upon request.

CONSOLIDATED OR COMBINED RETURNS

If one corporation owns 80 percent or more of the outstanding voting stock of another or others, or if 80 percent or more of the outstanding voting stock of two or more corporations is owned by the same interest, a consolidated or a combined return may be filed by those corporations that are subject to Virginia income taxes.

If a corporation elects to file on either a separate, consolidated, or combined basis, all returns thereafter must be filed on the same basis, unless the Department of Taxation grants permission to change. (Sec. 58.1-442.) A binding election is made in the first year in which a group of affiliated corporations is eligible to file a consolidated or combined return in Virginia. *Prior elections continue in effect and can be changed only with permission granted by the Virginia Department of Taxation.*

If a group of affiliated corporations has previously elected to file separate returns or a combined return for two or more members, then permission to file a consolidated return will generally be denied unless the group: (1) files a consolidated federal return, and (2) includes corporations that are required for Virginia purposes to use different apportionment factors. Any request to switch from one filing method to another must be submitted on or before the due date for the first return to use the requested filing method.

For purposes of Sec. 58.1-442:

- (1) a consolidated return means a single return for a group of corporations affiliated within the meaning of Sec. 58.1-302, prepared in accordance with the principles of Sec. 1502 of the Internal Revenue Code and regulations thereunder;
- (2) a combined return means a single return for a group of corporations affiliated within the meaning of Sec. 58.1-302, in which income or loss is separately determined in accordance with the following:
 - a. Virginia taxable income or loss is computed separately for each corporation;
 - b. allocable income is allocated to the state of commercial domicile separately for each corporation;
 - c. apportionable income or loss is computed utilizing separate apportionment factors for each corporation; and
 - d. income or loss computed in accordance with a through c above is combined and reported on a single return for the affiliated group.

All supplementary and supporting schedules filed with a consolidated or combined return should be prepared in columnar form, one column being provided for each corporation included in the consolidated or combined return. Supporting schedules for consolidated returns should also include a column for totals of like items before adjustments are made, a column for intercompany eliminations and adjustments, and a column for totals of like items after giving effect to the eliminations and adjustments. The items included in the columns for eliminations should be symbolized to readily identify contra items affected, and suitable explanations should be added if necessary.

Prohibition of worldwide consolidation or combination. The Virginia Department of Taxation shall not require, and no corporation may elect, that a consolidation or combination of an affiliated group include any controlled foreign corporation, the income of which is derived from sources outside the United States. (Sec. 58.1- 443.)

Effective for applications filed with the Department on or after July 1, 2003, a group of affiliated corporations that has filed Virginia income tax returns on the same basis for at least the preceding 20 years will be granted permission to change the basis of the type of return filed from consolidated to separate or from separate or combined to consolidated if: (1) the tax computed under the affiliated group's requested return basis would be equal to or greater than the tax for the full taxable year immediately preceding the taxable year for which the requested return basis would be applicable; and (2) the affiliated group agrees to compute its tax liability under both the requested return basis and the

elected return basis and pay the greater of the two amounts for the taxable year in which the requested return basis is effective and for the immediately succeeding taxable year.

IN-STATE CORPORATIONS

If the entire business of the corporation is transacted or conducted within Virginia, the tax is computed upon the entire Virginia taxable income of the corporation for each taxable year. The entire business of the corporation will be considered to have been transacted or conducted within this state if the corporation is not subject to a net income tax, a franchise tax measured by net income or a franchise tax for the privilege of doing business in another state. (Sec. 58.1-405.)

MULTI-STATE CORPORATIONS - TRANSACTING OR CONDUCTING PART OF BUSINESS WITHIN AND PART WITHOUT THIS STATE

A corporation having income from business activity that is taxable both within and without Virginia must allocate and apportion its net income as provided in Sec. 58.1-406 through 58.1-421. Such a corporation must complete and attach to the return Schedule 500A. A corporation is not taxable in another state if that state is prohibited from imposing an income tax on the corporation because its business activity in the state does not exceed the minimum standards set forth in Public Law 86-272. (15 U.S.C.A. Sec. 381 - 384.)

REPORT OF CHANGE IN FEDERAL TAXABLE INCOME

If the amount of a corporation's federal taxable income as reported on its federal income tax return for any taxable year is changed or corrected by the IRS (or other competent authority), or is changed as the result of a renegotiation of a contract or subcontract with the United States, the taxpayer must report this change to the Virginia Department of Taxation within ninety days. Any taxpayer filing an amended federal return must also file an amended state return, Form 500X, and must pay any additional tax and interest due, if applicable.

REFUND OF VIRGINIA TAX

A corporation may file an amended return, Form 500X, to claim a refund within the later of:

- (1) three years from the due date of the return or extended due date (whichever is later);
- (2) one year from the final determination of any change or correction in the liability of the taxpayer for any federal tax upon which the state tax is based, provided that the refund does not exceed the amount of the decrease in Virginia tax attributable to such federal change or correction;
- (3) two years from the filing of an amended Virginia return resulting in the payment of additional tax, provided that the amended return raises issues relating only to the prior amended return and the refund does not exceed the amount of the tax payment made with the prior amended return; or
- (4) two years from the payment of an assessment, provided the amended return raises issues relating only to the prior assessment and the refund does not exceed the amount of tax paid on the prior assessment.

Attach a copy of federal Forms 1120-X, 1139, the Revenue Agent's Report, Statement of Adjustment to Your Account or other form or statement showing the nature of any federal change and the date that it became final. For an Electric Cooperative subject to the modified net income tax, an amended return may be filed on Form 500-EC.

NET OPERATING LOSS DEDUCTIONS

Note: With Fixed Date Conformity, Virginia Code references conform to the Internal Revenue Code as it existed on December 31, 2003. Thus, federal changes effective after December 31,

2003, will require modifications for Virginia purposes. For tax years 2001 and 2002, a taxpayer may carryback a net operating loss 5 years for federal purposes, however, the loss can only be carried back 2 years for Virginia purposes unless an exception was allowed under federal law. Consequently, to the extent federal and Virginia net operating loss carrybacks and carryforwards differ, separate accounting will be required. For example: If the federal loss is carried back 5 years, there will be no adjustment to Virginia returns for the 5th, 4th and 3rd carryback years. The federal loss can be carried back two years for Virginia purposes and separate tax records must be maintained to reconcile the differences. Beginning in 2003, the carryback period for net operating losses is the same for federal and Virginia (2 years). An adjustment still may be necessary depending on differences between the 5 and 2 year carrybacks for 2001 and 2002. There is no Virginia net operating loss, as such, available for carryback or carryover. However, since the starting point (Line 1, Form 500) is federal taxable income, there is statutory provision for net operating loss deductions to the extent that such losses are included in federal taxable income. Since federal income must be modified for Virginia additions and subtractions, the additions and subtractions of the loss year follow the federal loss to the year the loss is utilized. Thus, if the federal net operating loss is fully utilized in a carryback or carryover year, the net amount of additions and subtractions will be applied in the same ratio to the applicable year. The federal net operating loss deduction may be used only to reduce federal taxable income, and a federal net operating loss deduction cannot create or increase a federal operating loss.

For a copy of the Virginia regulations, visit www.tax.virginia.gov or write to **Department of Taxation, Forms Request Unit, P.O. Box 1317, Richmond, VA 23218-1317** or call **804-440-2541**. For more information, call **804-367-8037** or write to **Department of Taxation, P.O. Box 1115, Richmond, VA 23218-1115**. **Tenemos servicios disponible en Español.**

ESTIMATED INCOME TAX

You can file and pay estimated income tax electronically at www.tax.virginia.gov, submitting EFT payments or filing **Form 500ES**. If a corporation filed estimated tax last year, then a personalized coupon booklet including the necessary vouchers will be mailed unless you are required to pay by EFT. If by February 14, 2005, a coupon booklet has not been received, a corporation may obtain nonpersonalized vouchers by visiting www.tax.virginia.gov or contacting the **Virginia Department of Taxation, Forms Request Unit, at 804-440-2541**. It is not necessary to file Form 500ES if estimated tax payments are made by EFT.

In case of any underpayment of estimated tax by a corporation, Sec. 58.1-504 requires that an addition to tax be made at the established interest rate for underpayments — unless one of the exceptions in that section applies. Use **Form 500C** to compute this addition to the tax and/or to indicate that an exception applies.

Calendar Year Filers

Every corporation subject to Virginia income tax whose accounting period is a calendar year, is required to make a declaration of estimated tax for calendar year 2005 if its Virginia income tax for that period can reasonably be expected to exceed \$1,000. Payment of the estimated tax must be made to the Department of Taxation as follows: 25% by April 15, 2005 25% by June 15, 2005 25% by September 15, 2005 and 25% by December 15, 2005.

Fiscal Year Filers

If a corporation's accounting period is a fiscal year beginning in 2005, the corporation is required to make a declaration of estimated income tax and pay 25% of the amount due to the Department of Taxation by the fifteenth day of the 4th month following the beginning of its fiscal year. Subsequent installments will be payable by the 15th day of the 6th month, the 15th day of the 9th month, and the 15th day of the 12th month following the beginning of its fiscal year. (Sec. 58.1-500 - 58.1-504.)

VIRGINIA TAXABLE INCOME

Virginia taxable income for a taxable year means the federal taxable income for such year of a corporation (or the "investment company taxable income" of regulated investment companies, or the "real estate investment trust taxable income" of real estate investment trusts, to which shall be added in each case any amount of capital gains taxable to the corporation under federal law) or the unrelated business taxable income of organizations exempt from income tax under Sec. 501(c) of the Internal Revenue Code, adjusted as provided under Sec. 58.1-402; except a corporation subject to the provisions of Sec. 58.1-403.

FORM 500 INSTRUCTIONS

Fiscal Year Filers or Short Year Filers: Complete this line only if your taxable year is not from January 1 to December 31. You must use the same taxable period on your Virginia return as on your federal return.

Complete the required information as requested in spaces provided at the top of page one. Be sure that name, address, federal employer identification number, and Virginia corporation account number are correctly reported. The Virginia account number for your corporation is shown on your label and on the corporation income tax payment vouchers. Check the "Final Return" box if no further Virginia income tax return is required for any taxable year.

Principal Business Activity Code: Enter the 6 digit North American Industry Classification System code (NAICS) code. Further information on this code can be found at www.census.gov/pub/epcd/www/naics.html.

Line 1 Federal Taxable Income

Enter taxable income after net operating loss deductions and special deductions for dividends as it appears on the federal income tax return filed with the Internal Revenue Service. Line 1 may not be less than zero except to report a net operating loss in the current year. Any corporation that is included in a consolidated return for federal income tax purposes, but files separate or combined Virginia returns or files a consolidated Virginia return with fewer than all of the members included in the federal return, must include with the Virginia return, schedules and statements necessary to reconcile actual consolidated federal taxable income to the federal taxable income reported on the Virginia return.

Line 2 Additions to Federal Taxable Income

Enter the amount by which any of the following changes reduced your federal taxable income:

- (a) **Fixed Date Conformity – Depreciation.** Enter the amount that should be added to Federal Taxable Income based upon the recomputation of allowable depreciation. If depreciation was included in the computation of your Federal Taxable Income and one or more of the depreciable assets received the special 30% or 50% bonus depreciation deduction for federal purposes in either 2001, 2002, 2003, or 2004, then depreciation must be recomputed for Virginia purposes as if such assets did not receive the special 30% or 50% bonus depreciation deduction for federal purposes in either 2001, 2002, 2003 or 2004. If the total 2004 Virginia depreciation is

less than 2004 federal depreciation, then the difference must be recognized as an addition on Line 2(a). For further instructions, see Virginia Tax Bulletins 02-3, 03-01 and 04-02 at www.tax.virginia.gov or call (804) 367-8037.

(b) Fixed Date Conformity — Other

- (1) **Disposed Asset** – If an asset was disposed of in 2004 and such asset received the special 30% or 50% bonus depreciation deduction for federal purposes in either 2001, 2002, 2003 or 2004 and a gain or loss was recognized for federal purposes, then the gain or loss must be recomputed as if such asset did not receive the special 30% or 50% bonus depreciation deduction for federal purposes in either 2001, 2002, 2003 or 2004. The adjustment will be the difference in the federal and Virginia basis of the asset when sold. If the federal basis of the asset is lower than the Virginia basis, then the difference between the two bases is included as an addition on the Virginia return. A similar adjustment is necessary to the sales factor. For further instructions, see Virginia Tax Bulletins 02-3, 03-01 and 04-02 which are available on the Department's website at www.tax.virginia.gov or call (804) 367-8037.

- (2) **Other changes not listed** – Enter any other amounts not covered above that should be adjusted as a result of Virginia's conformity to the Internal Revenue Code as it existed on December 31, 2003. Also, please attach a schedule and explanation of such addition. Check our web site, www.tax.virginia.gov, for other Fixed Date Conformity adjustments that may have passed after these instructions were printed.

- (c) Enter the amount shown on line 8 of Form 500AB as the exception amount for payments to a related entity in connection with trademarks, patents and similar intangible property. Attach Form 500AB.

- (d) Enter the amount on line 10, Form 500AB, as the taxable amount of payments to a related entity in connection with trademarks, patents and similar intangible property. Attach Form 500AB.

- (e) Enter the amount shown under Part I on page 2, line 28.

Line 3 Total

Enter the total of lines 1 and 2 (a), (b), (d) and (e).

Line 4 Subtractions from Federal Taxable Income:

Enter the amount by which any of the following changes increased your federal taxable income.

- (a) **Fixed Date Conformity – Depreciation.** Enter the amount that should be subtracted from Federal Taxable Income based upon the recomputation of allowable depreciation. If depreciation was included in the computation of your Federal Taxable Income and one or more of the depreciable assets received the special 30% or 50% bonus depreciation deduction for federal purposes in either 2001, 2002, 2003 or 2004, then depreciation must be recomputed for Virginia purposes as if such assets did not receive the special 30% or 50% bonus depreciation deduction for federal purposes in either 2001, 2002, 2003 or 2004. If the total 2004 Virginia depreciation is more than 2004 federal depreciation, then the difference must be recognized as a subtraction on Line 4(a). For further instructions, see Virginia Tax Bulletin 02-3, 03-01 and 04-02 at www.tax.virginia.gov or call (804) 367-8037.

(b) Fixed Date Conformity — Other

(1) **Disposed Asset** – If an asset was disposed of in 2004 and such asset received the special 30% or 50% bonus depreciation deduction for federal purposes in any of years 2001 through 2004, and a gain or loss was recognized for federal purposes, then the gain or loss must be recomputed as if such asset did not receive the special 30% or 50 % bonus depreciation deduction for federal purposes in any of years 2001 through 2004. The adjustment will be the difference in the federal and Virginia basis of the asset when sold. If the federal basis of the asset is greater than the Virginia basis, then the difference between the two bases is included as a subtraction on the Virginia return. A similar adjustment is necessary to the sales factor. For further instructions, see Virginia Tax Bulletins 02-3,03-01 and 04-02 which are available on the Department's website at www.tax.virginia.gov or call (804) 367-8037.

(2) Other changes not listed – Enter any other amounts not covered above that should be adjusted as a result of Virginia's conformity to the Internal Revenue Code as it existed on December 31, 2003. Also, please attach a schedule and explanation of such subtraction. Check our web site, www.tax.virginia.gov, for other Fixed Date Conformity adjustments that may have passed after these instructions were printed.

(c) Subtractions - Enter the amount shown on page 2, line 37.

Line 5

Total: Subtract total of lines 4 (a), (b) & (c) from line 3.

Line 6

If a Savings and Loan Association used the percentage of income method to compute its federal deduction for bad debts, then it must add the federal bad debt deduction (see line 24) and recompute the bad debt deduction for Virginia purposes by multiplying the amount on line 5 by 40%. If the Savings and Loan Association used the percentage of loans method or the experience method, enter the amount from page 2, Part 1, line 24 . (Sec. 58.1-403.)

Line 7 Virginia Taxable Income:

Subtract line 6 from line 5. This is your Virginia taxable income if the entire business of the corporation is transacted or conducted within Virginia. Corporations other than multistate corporations, skip to line 9.

Line 8 Multistate Corporations Only:

Multistate Corporations with no Virginia income must enter zeroes in 8(a) and 8(b). Otherwise, follow the instructions for lines 8(a) through 8(d) below.

Line 8(a) Income Subject to Virginia Tax

A corporation with income from business activity that is taxable both within and without Virginia should enter its multistate income subject to Virginia tax from Schedule 500A , line 16.

Line 8 (b)

Enter apportionment factor from the appropriate line from Schedule 500A, line 2, 3, 4, 5 or 10.

Line 8 (c) and 8 (d)

Nonapportionable Investment Function Net Income and Loss (applicable only to multi-state corporations):

Virginia law does not provide for an addition or subtraction of this income, nor does the law provide for the allocation of any income other than dividends. Lines 8(c) and 8(d) on the Form 500 recognize that some taxpayers may be entitled to an alternative method of allocation and apportionment if they can demonstrate that the application of Virginia's apportionment law

to their particular facts for the taxable year would be contrary to the principles set forth in *Allied Signal, Inc. v. Director, Division of Taxation*, 112 S. Ct. 2251 (1992).

In *Allied Signal, Inc.*, the Court reaffirmed the continued validity of apportionment of any income received directly by the taxpayer, including investment income such as capital gains, unless the capital transaction serves an investment function that is completely unrelated to any operational activities carried on in the state. The Court also reinforced the principle that investment income may be included in apportionable income if there is a unitary relationship between the taxpayer and the entity in which the taxpayer has invested. However, the Court made it clear that the absence of a unitary relationship does not necessarily preclude apportionment.

These adjustments are only available to those multistate corporations that file a Virginia Schedule A to apportion and allocate their income, and provide by clear and cogent evidence that the asset producing the income serves an investment function that is unrelated to operational functions. The denominator of the relevant apportionment factors shall also be adjusted to exclude items related to the investment assets.

Any taxpayer who qualifies for an alternative method of allocation and apportionment for this type of income is required to add back any loss included in federal taxable income that is attributable to the acquisition, ownership, management, stewardship, sale, or exchange of investment assets that are unrelated to the taxpayer's operational function on line 8(d). If the taxpayer has previously claimed a subtraction for nonapportionable investment function income with respect to any investment assets, the addition is required for any subsequent losses generated by such assets.

Burden of Proof: as a prerequisite to the ability to claim an adjustment on lines 8(c) and 8(d) (which effectively allocates income other than dividends) the taxpayer must be able to demonstrate that the application of Virginia law to their particular facts will be unconstitutional. The burden is on the taxpayer to provide clear and cogent evidence that the capital investment was completely separate from its operations, and that the taxpayer's investment function was located outside of Virginia. The taxpayer must also demonstrate that the classification of the capital asset and its income for Virginia purposes is consistent with the manner in which the income has been allocated and apportioned with other state tax authorities. The taxpayer will be under a particularly heavy burden of proof in cases where the asset was clearly operational at any time. Objective evidence is required; an unsubstantiated statement as to the taxpayer's intent, purpose or state of mind will be insufficient to meet the burden.

Taxpayers claiming an adjustment for nonapportionable income on 2004 corporate tax returns must attach a statement to the return stating the nature of the adjustment and the basis for the position that relief is provided under the Constitution. Supplemental evidence should be clearly referenced and included with the return. The taxpayer should submit all evidence considered necessary to support the taxpayer's position. For additional information, see Virginia Tax Bulletin 93-4 (4/6/93).

Line 9 Tax

Multiply the income (line 7 or line 8(a) whichever is applicable) by 6%.

Line 10

Enter the total nonrefundable credit amount from Form 500CR, Part XXIV, line 100.

Line 11 Adjusted Corporate Tax

Subtract line 10 from line 9.

Line 12 Payment Credits

- (a) Enter the total amount paid as estimated income tax.
- (b) Enter the amount of overpayment for the taxable year 2003, elected as a credit against 2004 estimated tax.
- (c) Enter any payment that was made with a request for extension of time to file the income tax return or any other payment not included in (a) or (b).
- (d) Enter the total refundable credits from Form 500CR, Part XXVI, line 108.

Line 13 Tax Due

Subtract line 12 from the total of line 11. This is the balance of the tax due.

Line 14 Penalty

- (a) Enter 6% of line 13 for each month or part of a month that the return is filed or payment is made after its due date (not to exceed 30% of line 13); or
- (b) If an extension was granted and the balance of tax due exceeds 10% of the actual tax liability (line 9), enter 1/2 of 1% per month or fraction thereof of the balance (line 13).

Line 15 Interest

Enter the amount due at the underpayment rate established by Section 6621 of the Internal Revenue Code, plus 2%, from the due date of the return until payment. This underpayment rate is subject to quarterly adjustment. When penalty is entered under 14 (a) above, interest is added from the due date to the date of payment.

Line 16 Additional charge

Enter the amount from line 17, Form 500C.

Line 17 Total Tax Due

Enter the total of lines 13, 14, 15 and 16. This is the total amount due and must be paid when the return is filed. Attach Form 500V with payment due.

Line 18 Overpayment

Enter the amount of overpayment if line 12 is larger than line 11.

Line 19 Amount to be Credited to 2005

Enter the amount of overpayment you want credited to your 2005 estimated tax, if any.

Line 20 Amount to be Refunded

Subtract line 19 from line 18 and enter the amount to be refunded.

Line 21 Coalfield Employment Enhancement Tax Credit earned

Enter the amount earned during the 2004 taxable year from Form 306.

ADDITIONS**Line 22**

The amount of any net income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by this state or any other taxing jurisdiction to the extent deducted in determining Federal taxable income. (Sec. 58.1-402 B.4.)

Line 23

Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia or of a political subdivision of any such other state unless created by compact or agreement to which this state is a party. (Sec. 58.1-402 B.1.)

Line 24

The deduction for bad debts allowed in computing federal taxable income for a state or federal savings and loan association. (Sec. 58.1-403.)

Line 25

The amount of unrelated business taxable income as defined by Section 512 of the Internal Revenue Code. (Sec. 58.1-402 B.5.)

Line 26

The amount of employee stock ownership credit carryover deducted by the corporation in computing federal taxable income under Section 404(i) of the Internal Revenue Code. (Sec. 58.1-402 B.6.)

Line 27

Other additions: Attach explanation and statutory reference.

1. A gas supplier, pipeline distribution company or gas utility shall add to federal taxable income any amount that was deducted in determining taxable income as a net operating loss carryover from any taxable year beginning on or before December 31, 2000. (Sec. 58.1-403(8).)
2. A gas supplier, pipeline distribution company or gas utility shall add to federal taxable income any amount that was actually deducted in determining taxable income as a net operating loss carryover or net capital loss carryover which would have been an allowable deduction as a net operating or net capital loss carryover in computing taxable income for a year beginning after December 31, 2000, except that such loss had been carried back for a taxable year beginning prior to January 1, 2001. (Sec 58.1-403 (9).)
3. Other. (Attach Explanation).

SUBTRACTIONS**Line 29**

Enter the amount of income (interest, dividends and gain) derived from obligations or the sale or exchange of obligations of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent included in federal taxable income but exempt from state income taxes under the laws of the United States. This includes, but is not limited to, stocks, bonds, treasury bills and treasury notes. It does not include interest on refunds of federal taxes, equipment purchase contracts or normal business transactions. (Sec. 58.1-402 C.1.)

Line 30

Any amounts included under the provisions of Section 78 of the Internal Revenue Code. (Sec. 58.1-402 C.5.)

Line 31

The amount of any refund or credit for overpayment of income taxes imposed by this state or any other taxing jurisdiction. (Sec. 58.1-402 C.4.)

Line 32

Any amount included therein by the operation of Section 951 of the Internal Revenue Code (subpart F income). (Sec. 58.1-402 C.7.)

Line 33

The amount of wages and salaries eligible for the Federal Work Opportunity Tax Credit which are not deducted for federal tax purposes. (Sec. 58.1-402 C.6.)

Line 34

A. Any amount included in federal taxable income which is foreign source income and defined as follows:

1. Interest other than interest derived from sources within the United States;
2. Dividends other than dividends derived from sources within the United States;
3. Rents, royalties, license, and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties, or fees for the use of or the privilege of using without the

United States any patents, copyrights, secret processes and formulas, goodwill, trademarks, trade brands, franchises, and other like properties; and

4. Gains, profits, or other income from the sale of intangible or real property located without the United States.
- B. In determining the source of income for purposes of paragraph A above, the provisions of Section 861, 862, and 863 of the Internal Revenue Code shall be applied. (Sec. 58.1-402 C.8.)

Line 35

The amount of any dividends received from corporations in which the taxpayer owns fifty percent or more of the voting stock, to the extent included in federal taxable income and to the extent not otherwise subtracted from federal taxable income. (Sec. 58.1-402 C.10.)

Line 36 Other

Attach explanation.

- (a) The dividends of a Domestic International Sales Corporation, fifty percent or more of the income of which was assessable for the preceding year, or the last year, in which such corporation has income under the provision of the income tax laws of this state. (Sec. 58.1-402 C.3.)
- (b) The amount of income received as a result of payments made under the Tobacco Master Settlement Agreement, the National Tobacco Grower Settlement Trust and the Tobacco Loss Assistance Program. (Sec. 58.1-402 C.18.)
- (c) The amount of gain from the sale or exchange of land or an easement when such property is devoted to open-space use. To the extent a subtraction is taken under this section, no tax credit for donating land for its preservation shall be allowed for three years following the year in which the subtraction is claimed. (Sec. 58.1-402 C.16.)
- (d) The amount contributed to the Virginia Public School Construction Grants Program and Fund that has not been claimed as a deduction on the corporation's federal income tax return. (58.1-402 C. 15.)
- (e) Other (Attach explanation)
1. There shall be subtracted from federal taxable income, by a gas supplier, pipeline distribution company or gas utility company, the amount that could have been deducted as a net operating loss carryover or net capital loss in arriving at taxable income except that such loss or portion thereof had been carried back for federal purposes. (Sec. 58.1-403 (9).)
 2. A subtraction for gas suppliers, pipeline distribution companies, gas utility companies, and electric suppliers, except cooperatives, for the amortization of the Virginia tax basis of assets that are recoverable for financial accounting and /or income tax purposes placed in service prior to the first day of the tax year the company became subject to Virginia corporate income tax (adjustment date). "Virginia tax basis" means the aggregate adjusted book basis less the aggregate adjusted tax basis of such assets as recorded on the company's books of accounts as of the last day of the tax year immediately preceding the adjustment date. The amortization of the Virginia tax basis shall be computed using the straight - line method over a period of thirty years beginning on the adjustment date. Gain or loss on the disposition or retirement of any such asset shall be computed using its adjusted federal tax basis, and the amortization of the Virginia tax basis shall continue thereafter without adjustment.
 3. A subtraction for intangible expenses and costs added to the federal taxable income of a related member as shown

on the Schedule 500AB attached to the Virginia return filed by such related member. (58.1-402 C. 21.)

4. Other. (Attach Explanation).

TAX CREDITS

Attach Form 500CR to your return when claiming a credit(s). See the instructions below indicating additional requirements.

The following rules apply when claiming credits on Form 500CR.

- Nonrefundable credits without a carryover provision are claimed first.
- Carryover credits must be fully used before any 2004 credits (current year credits) are allowed.
- To maximize allowable credit, carryover credits may be claimed in their order of expiration, regardless of the order shown on Form 500CR.

NEIGHBORHOOD ASSISTANCE ACT CREDIT

The Virginia Neighborhood Assistance Act provides tax credits to businesses that donate money, property, professional services and contract services directly to **pre-approved** Neighborhood Assistance Program (NAP) organizations whose primary function is to benefit impoverished individuals. Licensed physicians, dentists, nurses, nurse practitioners, physician assistants, optometrists, dental hygienists, professional counselors, clinical social workers, clinical psychologists, marriage and family therapists, physical therapists and pharmacists who donate their services in **pre-approved** NAP clinics may also be eligible for credits. Qualified organizations are approved for a twelve month period. Excess donor credit, if applicable, may be carried forward for the next five taxable years. The amount of credit attributable to a partnership or S corporation shall be allocated to the partners and shareholders in proportion to their ownership or interest in the partnership or S corporation. To claim the tax credit, a certificate from the Department of Social Services must be attached to your return. For a list of approved organizations or additional information, contact: **Virginia Department of Social Services, Neighborhood Assistance Program, Theater Row Building, 730 East Broad Street, Richmond, VA 23219-1849, or call 804-692-1895.**

ENTERPRISE ZONE ACT CREDITS

Businesses located within an Enterprise Zone may be eligible based on job creation to take a credit against the tax due on zone taxable income in an amount of 80% of the tax due for the first year and 60% of the tax due for the second through the tenth years. For (1) businesses investing at least \$15 million and creating 50 jobs or (2) businesses investing at least \$50 million and creating less than 50 jobs, the amount of credit is subject to be determined by the Department of Housing and Community Development (DHCD). Excess general tax credit, if any, may not be carried forward.

In addition to the general tax credit, qualified zone businesses may be eligible for a Real Property Improvement Tax Credit or a Zone Investment Tax Credit against zone taxable income. A credit of 30% of qualified zone improvements, not to exceed \$125,000, will be available for non-residential rehabilitation projects that invest an amount of at least \$50,000 or an amount equal to the assessed value of the real property prior to rehabilitation, whichever is greater. New construction projects must have an investment of \$250,000 in qualified non-residential real property improvements. Credit amounts in excess of tax liability will be refunded. Businesses that invest in excess of \$100 million in real property improvements and machinery and create at least 200 jobs within an enterprise zone may be eligible for the Investment Tax Credit. This is a tax credit **against the tax due on the zone taxable income** in an amount of up to 5 percent of the

investment in lieu of a Real Property Improvement Tax Credit. The investment credit can be carried forward until the full amount is used.

If the annual tax credit requested exceeds the annual appropriation, the Virginia Department of Housing and Community Development (**DHCD**) will issue a proportionate amount to each qualified business firm requesting the credits.

Portions of the jurisdictions below are designated Enterprise Zones.

Accomack	Hillsville	Pulaski County
Alexandria	Hopewell	Pulaski Town
Alleghany	James City	Richmond City
Brunswick	Kenbridge	Richmond County
Carroll County	Kilmarnock	Roanoke City
Charlotte	LaCrosse	Rocky Mount
Chesapeake	Lancaster	Saltville
Chesterfield	Lawrenceville	Scott County
Chilhowie	Lunenburg	Smyth
Clarksville	Lynchburg	South Boston
Clifton Forge	Martinsville	South Hill
Clintwood	Mecklenburg	Staunton
Covington	Narrows	Stuart
Danville	Newport News	Suffolk
Dickenson	Norfolk	Tazewell
Dinwiddie	Northampton	Victoria
Galax	Northumberland	Warren
Glade Spring	Orange	Warsaw
Greensville	Patrick	Washington
Halifax	Petersburg	Waynesboro
Hampton	Pittsylvania	Westmoreland
Haysi	Portsmouth	Wise
Henrico	Prince Edward	Wythe
Henry	Prince George	

To claim the enterprise zone credits, businesses qualified by DHCD after July 1, 1995 must complete Enterprise Zone Credit **Form 301**, and transfer the computed amount to the applicable line(s) on Form 500CR. Attach Form 301, the Certificate of Qualification issued by DHCD, and Form 500CR to your return. Businesses qualified by the state prior to July 1, 1995, must also include a copy of the Certification of State Unemployment Tax Credit from the Virginia Employment Commission. For application forms and specific information, contact: **Department of Housing and Community Development, The Jackson Center, 501 N. Second Street, or call (804) 371-7030 or visit www.dhcd.state.va.us**.

CONSERVATION TILLAGE EQUIPMENT CREDIT

A corporation investing in conservation tillage equipment for the purpose of farming may take a tax credit equaling twenty-five percent of tillage equipment expenditures (but not to exceed \$2,500 or the amount of tax, whichever is less) in the year of purchase. The term "conservation tillage equipment" means a "no-till" planter or drill designed to minimize soil disturbance, including planters and drills which may be attached to equipment already owned. Any amount unused this year may be carried over to the next five taxable years.

Attach a statement to your return showing purchase date, description and credit computation when claiming this credit.

COAL COGENERATION CREDIT

The provision for this credit expired on December 31, 2001. Thus, no new credits are available after that date, however, the carryover stipulation allows for previously earned and unused credits to be carried over for the next five succeeding taxable years or until the full credit is used, whichever is sooner. Enter the amount of carryover credit in Part V on Form 500 CR and compute the amount of credit available this year, and the amount to be carried over to next year. For any credit earned in 2001, the final carryover period will be taxable year 2006. This credit is nonrefundable and any unused credit will be lost at the end of the carryover period.

FERTILIZER AND PESTICIDE APPLICATION EQUIPMENT CREDIT

The fertilizer and pesticide application equipment credit is 25% of the cost of all expenditures for equipment certified as providing more precise pesticide and agricultural application or \$3,750 whichever is less. Qualifying individuals must be engaged in agricultural production for market and have in place a nutrient management plan approved by the local Soil and Water Conservation District. Any amount unused this year may be carried forward for the next five taxable years.

RECYCLABLE MATERIALS PROCESSING EQUIPMENT CREDIT, ALTERNATIVE RECYCLING CREDIT

Recyclable Materials Processing Equipment Credit: An income tax credit may be claimed for purchases made during the taxable year for machinery and equipment used exclusively in or on the premises of manufacturing facilities or plant units which manufacture, process, compound or produce items of tangible personal property from recyclable materials within the Commonwealth for sale. For the purposes of determining "purchase price paid", the taxpayer may use the original total capitalized cost of such machinery and equipment, less capitalized interest. The credit is 10% of such expenditures and may not exceed 40% of the Virginia income tax liability for the taxable year prior to applying the recycling credit. Any amount unused this year may be carried forward for the next ten taxable years. Subchapter S corporations may pass any credit through to shareholders.

Alternative Recycling Credit: The 1998 General Assembly passed legislation creating an alternative recycling tax credit for corporations investing at least \$350 million in Virginia before January 1, 2003. The credit may be claimed for 10% of the purchase price paid for machinery and equipment using the same criteria as is used with the Recyclable Materials Processing Equipment Credit. Additionally, the criteria used to determine the "purchase price paid," is the same as the Recyclable Materials Processing Equipment Credit. The amount of the credit may not exceed 60% of the Virginia income tax liability. Any unused credit may be carried forward for the next 20 years. A qualified taxpayer may claim either the Recyclable Materials Processing Equipment Credit or the Alternative Recycling Credit but not both.

The Virginia Department of Environmental Quality administers the certification of all recycling machinery and equipment. The Department of Environmental Quality recycling equipment certification together with purchase receipts and invoices from the equipment purchase **MUST** be submitted with the corporate income tax return in order to receive the credit. The Department of Business Assistance will certify that the corporation claiming the Alternative Recycling credit has made the required investment within Virginia. For additional information on how to qualify for certification, contact the **Department of Environmental Quality, Equipment Certification Officer, P.O. Box 10009, Richmond, VA 23240-0009 or call 804-698-4145.**

RENT REDUCTION PROGRAM CREDIT

Owners of rental property who provide a rent reduction to income eligible tenants who are age 62 or older, are mentally or physically disabled, or have been homeless (i.e. person who has resided in a domestic violence or homeless shelter) at anytime within the previous twelve months preceding the lease term are eligible to apply for a state income tax credit. The reduced rent must be at least 15% below the market rate. The credit is equal to 50% of the total rent reductions given to eligible tenants during the taxable year. A corporation may not claim this credit on any dwelling unit unless this credit for rental reductions was validly claimed on such dwelling unit for all or part of the month of December 1999 - no new owner applications

are being accepted. Any amount unused in the taxable year in which it was earned may be carried forward for the next five taxable years. Tax credits are only available for reductions offered after the time of application and approval by Virginia Housing Development Authority (VHDA). Copies of the Certificate of Qualification and Certification of Tax Credits from VHDA must be attached to your return when claiming the credit. For additional information, contact: **Kathy Thomas, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220-6504, 804-343-5615.**

VEHICLE EMISSIONS TESTING EQUIPMENT, CLEAN-FUEL VEHICLE AND CERTAIN REFUELING PROPERTY CREDIT

An income tax credit may be claimed for purchases of vehicle emissions testing equipment, clean-fuel vehicles and certain refueling property. The credit is: (1) 10% of the deduction allowed under Internal Revenue Code Section 179A if the vehicle is "garaged" in Virginia or the refueling property is placed in service in Virginia or 10% of the costs used to compute the credit under Section 30 of the Internal Revenue Code (qualified electric vehicles) and (2) 20% of the purchase or lease price paid during the taxable year for equipment certified by the Department of Environmental Quality (DEQ) for vehicle emissions testing within a locality required by law to implement an enhanced vehicle emissions inspection program or, after January 1, 1998, within any locality adjacent to those localities required to implement the program. Attach a copy of the letter from DEQ to the equipment vendor certifying that the equipment configuration meets the regulation and equipment specification requirements for use in the enhanced vehicle emissions inspection program. **For a copy of this letter, contact your equipment vendor or the DEQ Northern Virginia Regional Office in Woodbridge at 703-583-3900.**

You are not required to submit a specific form as part of your tax return to document the purchase of either a clean-fuel vehicle or a qualifying refueling property. However, you should retain documentation to support your claim for the tax credit as an audit may be conducted to verify any credit claimed under these provisions.

MAJOR BUSINESS FACILITY JOB TAX CREDIT

Individuals, estates, trusts, corporations, banks, insurance companies and telecommunications companies may claim a Virginia tax credit if the taxpayer creates at least 100 new full-time jobs in connection with the establishment or expansion of a major business facility, or if the company is engaged in a qualifying industry in Virginia and creates at least 100 new full-time jobs in Virginia. If a taxpayer is located in an enterprise zone or in an economically distressed area (as defined by the Virginia Department of Economic Development), the threshold is reduced from 100 to 50. Credits will be recaptured proportionately if employment decreases during the five years following the initial credit year. To compute this credit, complete **Form 304**.

This nonrefundable credit is equal to \$1,000 per each qualifying new job in excess of the 100 job threshold and is spread over three years. The credit only applies to facilities where an announcement to expand or establish such a facility was made on or after January 1, 1994. The credit must be claimed ratably over three taxable years, beginning with the taxable year following the year in which the facility is established or expanded, or the new qualifying jobs are added.

SPECIAL CREDIT PROVISIONS FOR BUSINESSES IN SEVERELY ECONOMICALLY DISTRESSED AREAS

For taxable years beginning on or after January 1, 2004 but before January 1, 2006, the threshold amount to qualify for this

credit for a business facility located in a severely economically distressed areas is lowered from 100 to 25 full time jobs. Severely economically distressed areas will be identified by the Virginia Economic Development Partnership and are defined as having an unemployment rate during the preceding year of at least twice the average statewide unemployment rate.

Please note that job expansion occurring during the 2004 taxable year will be eligible for this credit on the tax return for taxable year 2005 and not the return for 2004. Likewise, expansion occurring during 2005 will be eligible for the credit on tax returns for taxable year 2006.

The Department of Taxation is authorized to grant a total of \$100,000 in credits annually to businesses in severely economically distressed areas. The credit will be prorated among applicants if credit requests exceed the \$100,000 limit. Taxpayers will be notified by the Department of the amount of credit eligible to be claimed.

Businesses will apply for this credit during 2005 on forms to be prescribed by the Department of Taxation. These application forms will be available in the latter part of 2005. Please visit our website at **www.tax.virginia.gov** for further information.

Qualifying industries include: (1) manufacturing or mining; (2) agriculture, forestry or fishing; and (3) transportation and telecommunications companies. A major business facility includes a headquarters or portion of such a facility located in Virginia, where the majority of the company's financial, personnel, legal, or planning functions are handled either on a regional or national basis. A major business facility shall also include facilities located in Virginia that perform a central management or administrative function for other establishments of the same enterprise such as general management, accounting, computing, tabulating, data processing, purchasing, transportation or shipping, engineering and systems planning, advertising, legal, financial and research and development.

Any amount unused this year may be carried forward for the next ten taxable years. Credits will be recaptured proportionately if employment decreases during the five years following the initial credit year. If employment decreases below the threshold, the entire credit will be recaptured. To claim this credit, complete Major Business Facility Job Tax Credit, **Form 304**, and transfer the computed amount to Form 500CR, Part X.

CLEAN FUEL VEHICLE JOB CREATION TAX CREDIT

An income tax credit may be claimed for the creation of full-time clean fuel vehicle jobs. The credit for each job created will be \$700 in the year the job is created and in each of the two succeeding years that the job is continued for a maximum "per job" credit of \$2,100, provided the employment level in clean fuel jobs in the taxable year for which the credit is first claimed has increased from the previous taxable year. If the amount of the credit exceeds the tax liability in a given year, the unused credit may be carried forward for up to five years. To claim this credit, complete **Form 305**, Clean Fuel Vehicle Job Creation Tax Credit, and transfer the computed amount to Form 500CR, Part XI. The Clean-Fuel Vehicle Job Creation Tax Credit will not be allowed for jobs for which the taxpayer claims the Major Business Facility Job Tax Credit.

QUALIFYING STEAM PRODUCERS TAX CREDIT

The Qualifying Steam Producers Tax Credit expired on January 1, 2001. Therefore, the amount carried over from prior years would be the allowable amount of the credit to be claimed on this return.

A steam producer is allowed a credit of three dollars per ton for each ton of coal mined in Virginia purchased by the steam producer. A steam producer is a person who sells steam energy to a manufacturing company in the Commonwealth or uses steam

to produce manufactured goods. The carryover credit allowed may not exceed the total amount of tax liability. Any carryover credit not usable for the tax year may be carried over for the remaining tax years.

COALFIELD EMPLOYMENT ENHANCEMENT TAX CREDIT

For taxable years beginning on or after January 1, 1996, but before January 1, 2008, a tax credit may be earned by individuals, estates, trusts and corporations who have an economic ownership interest in coal mined in Virginia. The credit is based on the quantity of coal or methane gas produced and employment levels. If the number of coal mining jobs for the year the credit is earned is less than in the previous year, the maximum earned credit is reduced by an employment factor. The allowable credit must be computed on Form 306, Coalfield Employment Enhancement Tax Credit, and reported on the return filed for the tax year in which the credit is earned. **Form 306** must be attached to the tax return when filed. The allowable credits may be claimed in taxable years beginning on or after January 1, 1999, and are subject to a specific redemption schedule. This credit may not be claimed for any ton of coal for which the Coal Cogeneration Credit or the Virginia Coal Employment and Production Incentive Tax Credit is claimed. For forms and additional information, contact the Department of Taxation. To claim this credit, complete Form 306 and transfer the applicable amount to Form 500CR, Part XXV.

HISTORIC REHABILITATION TAX CREDIT

An individual, estate, trust, corporation, bank, insurance company or utility company incurring eligible expenses in the rehabilitation of a certified historic structure is entitled to claim a credit against the tax imposed by Sections 58.1-320, 58.1-360, 58.1-400, 58.1-1200, 58.1-2500 or 58.1-2620 of the *Code of Virginia*. The credit is equal to 25% of eligible rehabilitation expenses for projects completed in 2000 and thereafter. To qualify, the cost of the rehabilitation must equal at least 50% (25% if the building is an owner occupied residence) of the assessed value of the building for local real estate tax purposes in the year preceding the start of the rehabilitation. Unused credit may be carried forward for ten years. The rehabilitation work must be certified by the Virginia Department of Historic Resources as *consistent with the Secretary of the Interior's Standards for Rehabilitation*. Certification of buildings and rehabilitations are issued by the Department of Historic Resources and must be attached to the tax return when claiming the credit. A copy of the certificate must be attached for each year the credit is claimed even if the certificate has been submitted in a previous year. Applications for certification may be obtained from the **Virginia Department of Historic Resources, 2801 Kensington Avenue, Richmond, VA 23221, 804-367-2323**.

DAY-CARE FACILITY INVESTMENT TAX CREDIT

A credit is allowed in an amount equal to 25% of the expenditures made to establish a day-care facility for the children of employees, not to exceed \$25,000. The total credits approved may not exceed \$100,000 in any fiscal year. To be eligible for the credit: (1) the facility shall be operated under a license issued by the Virginia Department of Social Services; (2) the building permit application for the facility must be submitted after July 1, 1996; (3) the facility must be used primarily by the children of the taxpayer's employees; and (4) the Tax Commissioner must approve the credit application prior to claiming the credit. To apply, submit a letter of application that specifies the employer's name, location of the facility and certification of items (1)-(3) above to: **Department of Taxation, Tax Credit Administration Unit, P.O. Box 715, Richmond, VA 23218-0715**. Applications are approved in the order received. Approved applicants will receive an approval form from the Department. To claim the credit, complete Part XIV of the Form 500CR and attach a copy of the

approval form to your return when you file. This credit is nonrefundable but excess credit may be carried forward for 3 years.

LOW - INCOME HOUSING TAX CREDIT

If you are a Virginia taxpayer and claimed a low-income housing tax credit on your federal income tax return for housing units placed in service in Virginia on or after January 1, 1998, you may qualify to claim the state low-income housing tax credit. The state credit is a percentage of the federal credit. For additional information, contact the **Department of Housing and Community Development at (804) 371-7117**.

AGRICULTURAL BEST MANAGEMENT PRACTICES TAX CREDIT

This credit is available to individuals or corporations engaged in agricultural production for market who have in place a soil conservation plan approved by the local Soil and Water Conservation District (SWCD). The credit is 25% of the first \$70,000 expended for agricultural best management practices approved by the local SWCD. The maximum credit is \$17,500 or the total amount of state income tax obligation for the corporation. Any amount unused this year may be carried forward for the next five succeeding taxable years. The credit shall be allocated to individual partners and shareholders in proportion to their ownership or interest in the partnership or S Corporation. For more information, contact your local **Virginia Soil and Water Conservation District**.

WORKER RETRAINING CREDIT

The Worker Retraining Tax Credit allows an employer to claim a tax credit for the costs of providing retraining to qualified employees. Eligible worker retraining includes approved noncredit courses provided by any of the Commonwealth's community colleges or a private school or worker retraining programs (credit, noncredit courses) undertaken through an apprenticeship agreement approved by the Virginia Apprenticeship Council. The credit is 30% of all training costs through a community college, or up to \$100 annual credit per student of the cost incurred at a private school. Employers must apply for certification of the amount of allowable credit using **Form WRC**, Worker Retraining Tax Credit, by April 1 before claiming the credit on their income tax return. The maximum worker retraining credits granted to all employers is limited to \$2,500,000 annually. If total credits approved exceed this amount, each will be prorated. The credit is allowable against individual income tax, estate and trust tax, corporation income tax and the bank franchise tax. The credit is also allowable against taxes imposed upon insurance companies and utility companies (under Sections 58.1-2500 et. seq. and Section 58.1-2620 et seq., Code of Virginia). This credit is nonrefundable, but excess credit may be carried forward for the next three taxable years. To claim this credit complete Schedule 500CR. For information on pre-approved apprenticeship programs, contact the **Virginia Department of Labor and Industry at 804-786-2382**. For information on noncredit course approval, contact the **Virginia Department of Business Assistance, P.O. Box 446, Richmond, VA 23218-0446, telephone 804-371-8200**.

WASTE MOTOR OIL BURNING EQUIPMENT CREDIT

A business that operates a facility in Virginia which accepts waste motor oil from the public is allowed a tax credit equal to 50% of the purchase price paid for equipment for the taxable year beginning on or after January 1, 1999, provided that the equipment is used exclusively for burning waste motor oil at the business facility. The total credit allowed to any taxpayer in any taxable year is limited to \$5,000. Taxpayers successfully applying for the equipment certification with the Virginia Department of Environmental Quality by filing Form DEQ 50-12

will receive a statement from that agency certifying that the equipment is used for burning waste motor oil. For additional information concerning equipment qualifying for the credit or to apply for tax credit certification, contact: **Virginia Department of Environmental Quality, Attention: Equipment Certification Officer, P.O. Box 10009, Richmond, VA 23240-0009, or call 804-698-4145.**

CREDIT FOR EMPLOYERS HIRING RECIPIENTS OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

This income tax credit applies to qualifying employers hiring recipients of Temporary Assistance for Needy Families (TANF). Funding is not available for this credit for the taxable year 2004, therefore, it cannot be claimed on the income tax return for this year. However, any excess credit carried forward from prior years may be claimed on the income tax return for this year. Taxpayers claiming the credit carried forward from prior years must provide a statement from the Virginia Department of Social Services certifying the amount of credit allowable and the taxable year in which the credit was earned. For additional information concerning this credit, contact: **Virginia Department of Social Services, Division of Benefits Programs, 7 North 8th Street, Richmond, VA 23219-1849, 804-726-7362.**

CREDIT FOR EMPLOYERS OF DISABLED INDIVIDUALS

The provision for this credit expired on December 31, 2002. Thus, no new credits are available after that date, however, the carryover stipulation allows for previously earned and unused credits to be carried over for the next three succeeding taxable years or until the full credit is used, whichever is sooner. Enter the amount of carryover credit on Form 500 CR and compute the amount of credit available this year, and the amount to be carried over to next year. For any credit earned during 2002, the final carryover period will be taxable year 2005. This credit is nonrefundable, and any unused credit will be lost at the end of the respective carry over period.

RIPARIAN FOREST BUFFER PROTECTION FOR WATERWAYS TAX CREDIT

This tax credit provides a nonrefundable tax credit to an individual or corporation who owns land on which timber is harvested which abuts a waterway and who forbears timber harvesting on certain portions of the land for 15 years. The credit is 25% of the value of the timber retained as a buffer up to \$17,500. The buffer must be at least 35 feet wide and no more than 300 feet. There must be a Stewardship Plan and annual certification of compliance for each tract. Any unused credit may be carried forward for the next 5 years. The amount of credit attributable to a partnership or S corporation shall be allocated to the partners and shareholders in proportion to their ownership or interest. To apply for this credit, file Department of Forestry (DOF) Form 179 with DOF. If you are approved for this credit, DOF will send you a Tax Credit Certificate which should be attached to Form 500CR. For more information, contact the

Department of Forestry, Fontaine Research Park, 900 Natural Resources Drive, Suite 800, Charlottesville, VA 22903, 434-977-6555.

LAND PRESERVATION TAX CREDIT

This tax credit is for taxpayers that convey land or interest in land located in Virginia to a public or private agency eligible to hold such land or interests therein for conservation or preservation purposes. The conveyance must be in perpetuity. The credit is 50% of the fair market value, as substantiated by a "qualified appraisal" prepared by a "qualified appraiser", as those terms are defined under applicable federal law and regulations governing charitable contributions. The credit claimed by a taxpayer cannot exceed the lesser of income tax due or \$75,000 for 2001 and

\$100,000 for 2002 and beyond. Any unused credit may be carried forward for the next 5 taxable years. Any taxpayer holding a Land Preservation tax credit that originated on or after **January 1, 2002**, may transfer unused but otherwise allowable credit for use by another taxpayer on Virginia income tax returns by using **Form LPC**.

If this credit is taken, for the next three years taxpayers cannot take a subtraction for the gain on the sale of land or easements dedicated to open-space use. A subtraction is allowed for any gain or income recognized by a taxpayer on the application of a Land Preservation tax credit against a Virginia income tax liability, to the extent the gain is included in and not otherwise subtracted from federal adjusted gross income. The transfer of the credit and its application against a tax liability shall not create gain or loss for the transferor or the transferee.

Before claiming the credit, complete and file Form LPC with the Department within 90 days of the credit origination or the transfer of the credit, but at least 60 days before filing an annual return. This form is used to notify the Department of a donation of land or interest in land that creates a Land Preservation credit or the transfer of unused credit to another taxpayer. Upon receipt of Form LPC, the Department will issue you an Acknowledgment letter. To avoid delays at the time of return processing, attach the Form LPC Acknowledgment letter to your return. For assistance, call the Department's Tax Credit Administration Unit at 804-786-2992.

VIRGINIA COAL AND PRODUCTION INCENTIVE TAX CREDIT

For taxable years beginning on and after January 1, 2001, every electricity generator in the Commonwealth will be allowed a credit against their corporation income tax or modified net income tax of an electric cooperative for coal mined in Virginia. The credit is at the rate of three dollars per ton for each ton purchased and consumed by the electricity generator provided the coal was mined in Virginia. The credit is available in the year the purchased coal mined in Virginia is consumed by the electric generator. This credit is nonrefundable and any credit not usable for the taxable year in which such credit is earned may be carried over to the next five succeeding taxable years or until the full credit is utilized, whichever is sooner. In order to receive this credit, the cogenerator shall include certification by the seller that the coal was mined in Virginia. Also, a cogenerator may not claim this credit and the Coal Cogeneration Credit on the same ton of coal.

Donations to the General Fund

Legislation passed by the 2002 General Assembly allows you to make donations directly to Virginia's General Fund by writing a check payable to the State Treasurer and designating it as a donation to the Commonwealth's General Fund. To ensure proper accounting for these donations, you must attach your payment to Form GFD. Visit www.tax.virginia.gov or call (804) 367-8037 to obtain this form.